

BADIAK & WILL, LLP
Attorneys for Plaintiff
106 3rd Street
Mineola, New York 11501
(516) 877-2225
Our Ref. : 07-P-007-JK

JUDGE COTE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HARTFORD FIRE INSURANCE COMPANY
a/s/o PDM International, LLC,

Plaintiff,

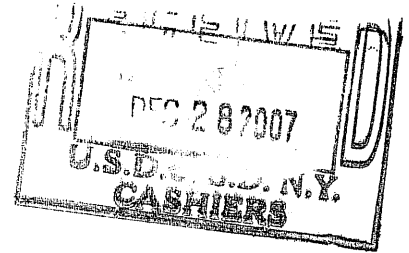
- against -

MEDITERRANEAN SHIPPING COMPANY S.A.,

Defendant.
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07 CV 11607
07 Civ. ()

COMPLAINT



Plaintiff, HARTFORD FIRE INSURANCE COMPANY, by their attorneys, Badiak, & Will, LLP, as and for their Complaint herein against the defendant, alleges upon information and belief as follows:

1. All and singular the following premises are true and constitute an admiralty or maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and within the admiralty and maritime jurisdiction of the United States and of this Honorable Court.

2. Plaintiff, Hartford Fire Insurance Company (hereinafter referred to as "Hartford"), is and was at all times hereinafter mentioned a corporation organized and existing under and by virtue of the laws of one of the states of the United States and provided all-risk cargo insurance for the subject shipment hereinafter described, and maintained an office and place of

business at P.O. Box 3122, Naperville, Illinois 60566-7122 and 2 Park Avenue, New York, New York.

3. Plaintiff Hartford has paid the consignee and owner of the shipment mentioned hereinafter pursuant to a marine cargo insurance policy herein before described and brings this action on its own behalf and as agent and trustee on behalf of and for the interest of all parties who may be or become interested in the said shipment, as their respective interests may ultimately appear, and plaintiff is entitled to maintain this action. The shipper and consignee hereinafter mentioned have performed all conditions required on their part to be performed with respect to the subject shipment.

4. Defendant, MEDITERRANEAN SHIPPING COMPANY S.A., (hereinafter "MSC"), is and was a corporation organized and existing under and by virtue of the laws of a foreign state with an office and place of business c/o Mediterranean Shipping Company USA, Inc., 420 Fifth Avenue, New York, New York 10018, and is and was at all times hereinafter mentioned, a common carrier by water for hire and owned, chartered, managed and/or otherwise controlled or contracted to use the M.V. MSC YOKOHAMA as a general vessel engaged in the common carriage of merchandise by water for hire between, among others, the ports of Callao, Peru, and New York.

5. On or before November 25, 2006, there was shipped by Danper Trujillo S.A.C., as shipper, and delivered to MSC and the M.V. MSC YOKOHAMA, at Callao, Peru, as common carriers, a shipment consisting of One Thousand Five Hundred Eighty (1,580) cartons of frozen asparagus, then being in good order and condition, and defendant then and there accepted the said shipment so shipped and delivered to them and, in consideration of certain freight charges

thereupon paid or agreed to be paid, agreed to transport and carry the said shipment to Hart, Michigan, via the Port of New York, and there deliver same in like good order and condition as when shipped, delivered to and received by them, to PDM International, LLC, the consignee and the plaintiff's assured, all in accordance with a bill of lading issued by or on behalf of the aforementioned vessel and defendant MSC numbered MSCUPO285964, dated on or about November 25, 2006.

6. Thereafter the defendant made delivery of the aforementioned shipment ex the vessel MSC YOKOHAMA, but not in like good order, condition or quantity as when shipped, delivered to and received by them but, to the contrary, with serious damage, shortage and impaired in value, all in violation of the defendant's obligations and duties as a common carrier of merchandise by water for hire.

7. By reason of the foregoing premises, plaintiff has sustained damage, as nearly as the same can now be estimated, no part of which has been paid although duly demanded, in the sum of \$36,663.19.

WHEREFORE, plaintiff prays:

1. That process in due form of law may issue against defendant citing it to appear and answer all and singular the matters aforesaid;
2. That if defendant cannot be found within this District then all of their property within this District be attached in the sum of \$36,663.19, with interest thereon and costs, the sum sued for in this Complaint;

3. That judgment may be entered in favor of plaintiff Hartford Fire Insurance Company and against defendant Mediterranean Shipping Company, S.A., for the amount of plaintiff's damages, \$36,663.19, together with interest and costs and the disbursements of this action; and

4. That this Court will grant to plaintiff such other and further relief as may be just and proper.

Dated: New York, New York
December 27, 2007

BADIAK & WILL, LLP
Attorneys for Plaintiff,
Hartford Fire Insurance Co.

By: 

JAMES P. KRAUZLIS (JK-4972)